

AB118 Air Quality Improvement Program (AQIP) Preliminary Draft Guidelines

Discussion Document for November 5 and 6, 2008 Public Workshops

Background

ARB staff envisions that the AQIP requirements and parameters will be defined by four distinct documents:

- Enabling Statute (HSC Sections 44270, 44271, and 44274): Assembly Bill (AB) 118 (Statutes of 2007, Nunez) created the AQIP and identifies the program's purpose, statutory limitations, and potentially eligible source categories. AB 109 (Statutes of 2008) refined the program requirements of AB 118.
- AQIP Guidelines: The AQIP Guidelines further define the policies and procedures for program implementation. Adopted as regulations, the AQIP Guidelines are not intended to be updated annually. In cases where flexibility may be needed to more efficiently implement the program, the Guidelines defer more specific requirements to the annual Board-approved Funding Plan or the project solicitations.
- Funding Plan: The Funding Plan is each fiscal year's plan for expending AQIP funds, and includes funding allocations, the administering agency (or potential administering agency) and general criteria for each project category. The Funding plan is updated and brought to the Board for its consideration annually.
- Project Solicitations: ARB will issue project solicitations for each of the project categories identified in the Board-approved Funding Plan. These solicitations will include additional programmatic details potential grantees need to apply for funds and implement the program.

The requirements in the AQIP Guidelines would apply to multiple funding years and the universe of potential projects. The following draft regulatory text therefore prescribes those program parameters that staff believes will apply across multiple funding cycles or potential project types.

The preliminary draft AQIP Guidelines are still under development, reflect staff's very initial ideas, and are intended to elicit public comment.

Preliminary Draft AQIP Guideline Language
(To be adopted as a regulation)

Definitions

Applicant. Any potential project administrator or grantee which applies to ARB for AQIP funding for a specific project category.

“ARB” or “Board”. The California Air Resources Board. The term “Board” is specifically used to refer to the Governing Board of the agency and is typically associated with formal actions to adopt regulations or approve a Funding Plan.

Earned Interest. Interest generated from Air Quality Improvement Program funds held in interest-bearing accounts.

Funding Plan. The Board-approved plan which designates eligible AQIP project categories, funding targets, and funding mechanisms for a specific fiscal year.

Grantee. A vehicle/equipment owner or other entity that receives AQIP funding for an eligible emission-reduction technology, research project, or workforce training project. For the purpose of this regulation, a loan recipient is also considered a grantee.

Match Funding. Non-AQIP funds used in conjunction with AQIP funds to help complete an AQIP project or projects.

Project Administrator. An entity which implements the AQIP for a specific eligible project category. ARB or other third parties may act as project administrators.

Project Category. A specific type of vehicle or equipment technology, demonstration project, research project, or workforce training project approved by the Board in the annual Funding Plan.

Project Solicitation. ARB’s public announcement to formally open the application acceptance period for a specific project category.

(a) Funding Plan

ARB staff shall bring a Proposed Funding Plan to the Board for its consideration annually. The Proposed Funding Plan shall include staff’s recommendations for expenditure of AQIP funds for the current or subsequent fiscal year.

(1) **Funding Plan Development** – ARB shall update the Funding Plan annually, as follows:

A. **Public Workshops:** Public workshops on each year’s Proposed Funding Plan must be held at least 45-days prior to Board consideration.

- B. Public Comment Period: A Proposed Funding Plan shall be released for public comment at least 30 days prior to Board consideration.
 - C. Board Approval: ARB may solicit each fiscal year's projects only after the Funding Plan has been formally approved by the Board, and may fund projects only after the Legislature has appropriated that fiscal year's AQIP funds.
- (2) **Funding Plan Components** -- Each year's Funding Plan shall, at a minimum, include the following:
- A. Eligible Project Categories and Funding Targets: The Funding Plan shall include a description of the eligible AQIP project categories and each project category's maximum funding allocation. The Funding Plan may include a contingency plan for expenditure of AQIP funds if solicitations for eligible project categories do not reach the Board-approved funding targets. To be eligible for AQIP funding, a project category must meet the requirements of HSC Section 44274(c).
 - B. Justification: The Funding Plan shall include policy and technical justification for the funding level identified for each of the proposed eligible project categories. This justification for each proposed eligible source category shall include an evaluation of potential emission reductions, cost-effectiveness, contribution to regional air quality improvements, and ability to promote the use of clean alternative fuels and vehicle technologies, as required by HSC Section 44274(b).
 - C. Project Administrator: The Funding Plan shall indicate for each source category whether ARB shall act as project administrator, or a third party shall be selected via a competitive process to act as project administrator.
 - D. General Project Criteria: The Funding Plan shall describe general criteria for prioritizing specific projects within each eligible source category. Detailed project evaluation and scoring criteria shall be included in project solicitations, as identified in Section (b).
 - E. Surplus Emission Reductions: To ensure the AQIP meets the requirements of HSC Section 44271(c), the Funding Plan shall include project eligibility criteria for each project category eligible for AQIP funding in that fiscal year.

(b) Project Solicitations

ARB shall issue solicitations for each of the project categories approved by the Board in each fiscal year's Funding Plan no later than 90 days after each fiscal year's funds are appropriated by the Legislature or 90 days after Board approval of the Funding Plan, whichever is later. Each project solicitation shall include the following components:

- (1) **Definition of Eligible Projects:** The solicitation for each project category must describe all project eligibility requirements in sufficient detail to determine whether any specific vehicle or equipment, demonstration, research, or workforce training project is eligible for funding.

Definition of Eligible Applicants and Fund Recipients: The project solicitation for each source category must include minimum eligibility criteria for fund recipients. Fund recipients shall generally fall into the category of project administrators or grantees.

ARB's solicitations for third-party administrators shall identify the specific administrator eligibility and selection criteria for the applicable project category. The choice of administrator for each project category shall be based upon factors such as: emission reductions achieved; demonstrable resources, staffing, and experience to successfully implement the program; local expertise; match funding provided or ability to leverage additional emission reductions; program simplicity and transparency; administrative costs; and level of oversight and accountability. The relative importance of these and other potential factors in choosing a project administrator shall depend on what is necessary to ensure the most effective and efficient implementation of the AQIP for each source category.

- (2) **Project Selection Criteria:** The project solicitation shall define the criteria by which projects shall be evaluated and selected.
- (3) **Application and Project Evaluation Deadlines:** The project solicitation shall specify the date by which project applications must be submitted, and the date by which applicants shall be notified if they have or have not been selected to receive funding.
- (4) **Minimum Contract Requirements:** Minimum contract requirements for each project category shall be identified in the project solicitations, as appropriate.
- (5) **Match Funding:** Match funding requirements, if any, shall be described in each source category's project solicitation.

- (6) Program Administration Funds: The project solicitation shall identify maximum funding available for program administrative expenses. All program administration funding must meet the requirements of Section (c)(2).

(c) Program Administration

- (1) Earned Interest: The project administrator shall maintain accounting records that track interest earned from and expended on AQIP funds. The calculation of interest must be based upon an average daily balance or some other reasonable and demonstrable method of allocating the proceeds back into the AQIP. Interest earned by a project administrator on AQIP funds must be directed to the project category which the project administrator is implementing and must meet all applicable requirements of the AQIP.
- (2) Administrative Expenses: This section applies to any project administrator which utilizes AQIP funds for program administration.
 - A. Allowable Costs: The AQIP Funding Plan or project solicitation for each source category shall specify maximum allowable costs for administrative expenses. Administrative funds shall only be used for costs associated with the program implementation and must be documented by the project administrator. Administrative funds shall be used for AQIP administration and outreach, including: staff time; consultant fees; printing, mailing, and travel costs; project monitoring and compliance expenses; and indirect costs such as general administrative services, office space, and telephone services.
 - B. Required Documentation: The project administrator must maintain documentation of AQIP funds used for administration and outreach. Administration and outreach expenses funded by the AQIP must meet the following minimum requirements:
 - Personnel documentation must make use of timesheets or other labor tracking software. Duty statements or other documentation may also be used to verify the number of staff and actual hours or percent of time staff is devoted to AQIP administration and outreach.
 - Consultant fees must be documented with copies of the consultant contract and invoices.
 - Printing, mailing, and travel expenses must be documented with receipts and/or invoices.

- Indirect cost calculation methodologies must be reasonable, documented, and consistent with the administrator's internal fiscal protocols and requirements. The administrator must maintain documentation for all costs referenced in the indirect cost calculation formula.

The above documentation, records, and referenced materials must be kept for at least two years after the applicable fiscal year's project funding has been fully expended, and made available for review during ARB or other State agency monitoring visits and audits.

(d) Compliance with the AB 118 Air Quality Guidelines

Except as provided in CCR Chapter 8.1 section 2341, the requirements of CCR section 2343 apply to all projects funded through the AQIP. Compliance with CCR section 2343 will be conducted accordingly:

- (1) Potential project categories will be screened for compliance with the Air Quality Guidelines prior to project solicitation.
- (2) Those project categories that meet the requirements of the Air Quality Guidelines, as defined in CCR section 2343, will be eligible for inclusion in the project solicitation.
- (3) Emerging technologies, as defined by CCR 2342(d), may be eligible for inclusion in project solicitations. Project solicitations for emerging technologies must include criteria for submittal of documentation by the project applicant and subsequent ARB review of documentation consistent with the case-by-case evaluation defined in CCR section 2343(d)(3).

Sustainability Provisions: *Staff is considering how sustainability goals for the AQIP (HSC Section 44271(a)(2)) may be met by ensuring program consistency with ARB's Low Carbon Fuel Standard (under development).*

(e) Oversight and Accountability

- 1) ARB has primary oversight responsibility for the AQIP to ensure the program is run transparently and efficiently, and that AQIP funds are spent consistent with the requirements of statute and these guidelines.
- 2) ARB staff or its designees shall conduct program or fiscal audits of AQIP administration and implementation.

- 3) Project administrators and grantees shall grant ARB, the California Department of Finance, the California Bureau of State Audits, or any authorized designee access, during normal business hours, to conduct program and fiscal audits or other evaluations for the purpose of monitoring the AQIP. Granting of access includes reviewing of project records, site visits, and other evaluations as needed to ensure compliance with program requirements. Project evaluations or site visits may occur unannounced as ARB staff deems necessary.

(f) Program Reporting

Beginning in 2010, ARB staff shall report to the Board on progress in implementing the AQIP. The report shall include all of the following:

- (1) A list of the specific projects which were awarded funding pursuant to the previous fiscal year's Funding Plan.
- (2) The expected benefits of the previous fiscal year's Funding Plan in promoting clean, alternative fuels and advanced vehicle technologies.
- (3) Improvement in air quality and public health, greenhouse gas emission reductions, and the progress made towards achieving these benefits.
- (4) Recommendations for future actions.
- (5) This report may be used to fulfill the HSC Section 44274(d) requirement for a biennial AQIP report to the Legislature.